

## SOMERVILLE BOARD OF HEALTH MASSAGE REGULATIONS

### SECTION 100.00 PURPOSE

The purpose of this regulation is to establish license, application, and renewal procedures applicable to the practice of Massage and the conduct of Massage Establishments, Off-Premises Massage Businesses, and in accordance with the authority granted by General Laws, Ter. Ed., Chapter 140, Section 51, as amended, and Chapter 111, Section 31.

### SECTION 200.00 DEFINITIONS

(A) Massage therapy, body-work; movement education: Any act or technique of moving or manipulating superficial or deep tissues, muscles, joints, or bones by rubbing, kneading, guiding or the like by manual or mechanical means, or as directed by the practitioner, for the purpose of invigoration, relaxation, education, or an increase in physical and/or emotional health and well-being. "Massage therapy; body-work; movement education" will hereinafter be referred to as "Massage". Massage shall include but not be limited to : Body-Mind Centering, Body-Oriented Psychotherapy; the FELDENKRAIS Method; Massage Therapy; Neuromuscular Therapy; Oriental Body-work Therapies including: Acupressure, Amma, Anma, Chi nei sang, Jin shin do, Okazaki Restorative Massage, Nuat thai, Shiatsu and Tuina; Polarity Therapy; ROLFING, and the TRAGER Approach. Massage may include the use of oils, lotions, powders, or similar preparations used in this practice and may include the use of heat lamps, or hot and cold packs.

(B) Massage Practitioner: Any person who for compensation, hire, or reward engages in the practice of Massage. The term includes masseur, masseuse, Massage Practitioner, myotherapist, oriental bodywork practitioners, shiatsu practitioners, polarity therapists, or similar terms denoting persons who engage in the practice of Massage.

(C) Massage School or Training Facility: Any school or institution of learning which teaches or instructs students in the theory, method, practice profession, or work of Massage; which is licensed by the Commonwealth of Massachusetts or any other State of the United States or which is recognized by a Massage professional association possessing an enforceable code of ethics; and which provides sufficient instruction in the practice of Massage for graduation, certification, or receipt of a diploma evidencing professional competency.

(D) Massage Establishment: Any room or group of rooms, office, building, or other fixed place of business or premises in which any person, firm, association, partnership corporation, or combination of persons provide or permit to be provided, Massage services or any method of manipulating the human body as described in Section 200.00(A). The term Massage Establishment includes, but is not limited to, health clubs and fitness centers.

(E) Off-Premises Massage Business: Any person, firm, association, partnership, corporation, or combination of persons who provide or permit to be provided Massage or any method of manipulating the human body at a location other than a Massage Establishment which has been licensed, or which should be licensed under this regulation including, but not limited to, homes, businesses, and sports events.

(F) Hire or Reward: The receipt of compensation or fees of any type paid by any person or group of persons in exchange for the receipt of a Massage in a Massage Establishment or by an Off-Premises Massage Business, whether directly or by virtue of membership or access.

(G) Patron: Any person who is provided access to a Massage Establishment or Off-Premises Massage Business in exchange for a fee or other compensation or any person who in exchange for a fee or other compensation is afforded use of a Massage Establishment or Off-Premises Massage Business as a condition or benefit of membership or access.

(H) Advertise or Hold Out: To solicit the general public by print, television, radio, or other media or to provide as a benefit of membership or access to a Massage Establishment or Off-Premises Massage Business.

(I) Sexual or Genital Area: The genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of a female.

(J) Person: Any individual, co-partnership, firm, association, corporation, or any combination of individuals of whatever form or character.

(K) Board of Health: The City of Somerville Board of Health.

#### SECTION 300.00 GENERAL

(A) Barbers or apprentices, as defined in Massachusetts General Laws, Chapter 112, Sections 87H, 87I, or hairdressers, operators, or students, as defined in Massachusetts General Laws Chapter 112, Sections 87T to 87JJ, may practice facial or scalp massage without taking out a license as provided in this regulation.

(B) This regulation shall not apply to a person who is licensed in the Commonwealth as a physician, dentist, chiropractor, podiatrist, nurse, physical therapist, athletic trainer, or who is engaged in performing the duties of any other similar profession that is subject to licensing.

(C) No person shall practice as a Massage Practitioner or conduct a Massage Establishment or Off-Premises Massage Business for Hire or Reward or Advertise or Hold Out as being engaged in the business of Massage in the City of Somerville without receiving licenses from the Board of Health.

(D) The Board of Health may consult such professional associations or professional advisory boards as it deems necessary to advise it in matters relating to the functions, powers, and duties set forth in this regulation.

#### SECTION 400.00 OPERATOR OF ESTABLISHMENT OR BUSINESS: APPLICATION PROCEDURE

(A) No person shall operate any Massage Establishment or Off-Premises Massage Business (hereafter sometimes collectively denoted "Establishment or Business") used by Patrons for Hire or Reward without a license issued by the Board of Health for each Establishment or Business location. The license required by this regulation shall be in addition to any other license or permit required by municipal ordinance and federal or state law, except no Massage Establishment or Off-Premises Massage Business license shall be required for hospitals, nursing homes, convalescent homes or similar institutions licensed by the Commonwealth of Massachusetts.

(B) Prior to the operation of any Massage Establishment or Off-Premises Massage Business, any Person shall file an application for a license to operate such Establishment or Business. The application shall be on a form prescribed by the Board of Health and shall contain the following information:

- (1) Name of applicant and each partner or limited partner of an applicant, if a partnership applicant, and each officer and director, if a corporate applicant, and any stockholder of a corporate applicant holding more than ten percent of the stock of the corporate applicant and, for each individual:
  - (a) Written proof that each individual is at least eighteen years of age,
  - (b) All residential addresses for the past five (5) years,
  - (c) The business, occupation, or employment of each individual for the three years immediately preceding the date of application,
  - (d) The previous experience of the individual in the Massage or similar business,
  - (e) Sex, height, weight, color of hair and eyes,
  - (f) All criminal convictions, forfeiture of bond, or plea of nolo contendere, excluding traffic, misdemeanor or infraction violations,
  - (g) License history of the applicant; whether such person has ever had any license or permit issued by any agency or board, city, county, or state revoked or suspended, and the reasons therefor; and the business activity or occupation of the applicant subsequent to such revocation or suspension,
  - (h) Two front faced portrait photographs at least two inches-by-two inches in size of each individual within the six months immediately preceding the date of application,
  - (i) If the applicant is a corporation or if a partner of any partnership is a corporation, then the name of the corporation shall be set forth exactly as shown in the Articles of Incorporation, together with the state of incorporation, and proof of authority to do business in the Commonwealth of Massachusetts,
  - (j) Authorization and release for the Board of Health to seek information or references necessary to verify the information contained in the application,
  - (k) A written statement by the applicant certifying under penalty of perjury that all information contained in the application is true and correct.
- (2) The precise name under which the Massage Establishment or Off-Premises Massage Business is to be conducted.
- (3) The complete address and all telephone numbers and emergency telephone numbers of the Massage Establishment or Off-Premises Massage Business.

(C) All applicants shall pay a nonrefundable filing fee and submit the completed application to the Board of Health. The filing fee for a Massage Practitioner license shall be one hundred (\$150) dollars. The filing fee for a Massage Establishment or Off-Premises Massage Business license shall be two hundred (\$250) dollars for an Establishment or Business with only one full or part time

Massage Practitioner, and shall be three hundred (\$350) dollars for an Establishment or Business with more than one full or part time Massage Practitioners. The Board of Health may refer copies of the application to the Fire Department, Police

Department, Inspectional Services Department, or other City of Somerville enforcement or regulatory bodies as deemed appropriate. The City agencies may inspect the premises proposed to be operated as a Massage Establishment and make recommendations to the Board of Health concerning compliance with the regulations, ordinances, and statutes of the Commonwealth of Massachusetts and the City of Somerville.

(D) The applicant's failure or refusal to promptly give any information relevant to the investigation of the application, the applicant's failure or refusal to appear at any reasonable time and place for examination or inquiry regarding the application, or the applicant's refusal to submit to or cooperate with any inspection required by this section shall be grounds for denial of the application.

(E) Upon receipt of the recommendations of the respective City agencies that may have inspected the applicant's premises and with the information contained in the application, together with additional information supplied under the provisions of this section, the Board of Health may issue the requested license, unless it shall find:

- (1) that the operation of the Massage Establishment or Off-Premises Massage Business as proposed by the applicant would not comply with the applicable laws of the Commonwealth of Massachusetts and the City of Somerville, including but not limited to, the State Building Code and the health, housing, fire prevention, and zoning ordinances of the City of Somerville, or
- (2) that any person, including but not limited to employees who will be directly engaged in or employed in the Massage Establishment or Off-Premises Massage Business, has been convicted of a violation of any health and safety law or criminal law or has been convicted in any other state of any offense which, if committed or attempted in this Commonwealth, would have been punished as one or more of such offenses; or
- (3) that any person, including but not limited to, employees who will be directly engaged or employed in the Massage Establishment or Off-Premises Massage Business, has committed an act, which if done by a licensee under this regulation, would be grounds for suspension or revocation of the license; or
- (4) that the operation of the Massage Establishment or Off-Premises Massage Business as proposed by the applicant would violate the provisions of this regulation.

(F) The Establishment or Business license shall be for an initial term of the current licensing year unless sooner suspended or revoked. Such license shall automatically expire on June 30 of each year and must be renewed annually.

#### **SECTION 500.00 MESSAGE ESTABLISHMENT OR BUSINESS: OPERATING REQUIREMENTS**

(A) No owner or operator, responsible managing employee, manager, or licensee in charge of or in control of a Massage Establishment or Business may employ or permit a person to act as a Massage Practitioner who is not in possession of a valid, unrevoked, unsuspended license issued under this regulation.

(B) The possession of a valid Massage Establishment or Off-Premises Massage Business license

does not authorize the possessor to perform work for which a Massage Practitioner's license is required.

(C) No Massage Establishment shall be kept open nor any Off-Premises Massage Business operate between the hours of 10 p.m. and 7 a.m.

(D) Minimum ventilation shall be provided in accordance with the State Building Code. A light level of no less than ten (10) footcandles shall be maintained at any point within each room or enclosure where Massage services are performed and at all times that such services are being provided. In public rooms and walkways, minimum light levels shall be no less than those specified in the State Building Code for lighting.

(E) Every room or enclosure used for the reception or treatment of Patrons shall be so located and arranged as to afford adequate fire protection and means of escape in case of fire according to the State Building Code or the Fire Prevention Code of the City of Somerville.

(F) Every room or enclosure used for the reception or treatment of Patrons shall be equipped with a door.

(G) Standard or portable Massage tables shall be covered with a durable washable material which is capable of being sanitized.

(H) Any room used by any person licensed to practice Massage shall have ready access to an adequate and constant supply of running hot and cold water and all furniture and equipment in each room shall be kept clean at all times.

(I) The facility shall have adequate equipment for disinfecting and sanitizing nondisposable instruments and materials used in administering Massages. All nondisposable instruments shall be sanitized after use on each person.

(J) No unsanitized part of a percussor, vibrator, or other mechanical appliance shall be applied directly to the skin of a Patron. The part of the body being treated shall be covered with a clean towel, or else the instrument shall be covered in a similar manner.

(K) Robes, towels, cloths, or other linens which come into direct contact with the bodies of Patrons shall, after use and before reuse, be laundered in such a manner as to ensure effective sanitization. No common use of robes, towels, cloths, or other linens is permitted. All used robes, towels, cloths, or other linens shall be kept in covered containers, closed cabinets, or closed bags and shall be kept separately from clean robes, towel, cloth or linen storage areas. Such separate storage areas shall be plainly marked as "clean" or "soiled".

(L) All oils, creams, lotions, talcs, or other preparations used in administering Massages shall be labelled and kept in clean, closed containers or cabinets.

(M) All nondisposable instruments and devices designed or used for direct application to the skin shall be such as can readily be kept clean and sanitized.

(N) Each operator of a Massage Establishment or Off-Premises Massage Business and each Massage Practitioner shall keep a log of the dates and hours of each treatment or service; name, address, and birthdate of the Patron, subject to verification as necessary by a drivers license, birth certificate, or other proof; name of Massage Practitioner and description of the treatment or service. Such logs shall be open to inspection by public health and inspection officials. The information

furnished or secured shall be used only to ensure and enforce compliance with this regulation and other applicable laws. Such information shall otherwise remain confidential.

(O) The Sexual or Genital Areas of Patrons must be covered with cloths, towels, or undergarments when receiving services from a Massage Practitioner.

(P) All students at institutions licensed to teach massage therapy in the City must provide a statement in writing from a licensed physician in the Commonwealth of Massachusetts that he or she has examined the student within the past thirty (30) day period prior to the student conducting any hands on massage therapy and believes the student to be free from all communicable diseases transmissible by the practice of massage or the close physical contact ordinarily associated with massage. Such statement shall include a certification that the student is free of tuberculosis in a communicable form as set forth by the Department of Public Health in the Commonwealth of Massachusetts. Such statement must be provided whether or not the student has or intends to seek a license to practice massage therapy and a copy of the statement must be kept on file at the school.

#### SECTION 600.00 APPLICATION AND RENEWAL PROCEDURE: MASSAGE PRACTITIONER'S LICENSE

(A) Any person desiring a Massage Practitioner's license shall file a written application on a form required by the Board of Health. The application shall be accompanied by a filing fee and shall contain the following information:

- (1) A statement of the exact location at which the applicant will be working as a Massage Practitioner or the central business address for an Off-Premises Massage Practitioner, including the full street address and all telephone numbers and emergency telephone numbers associated with the location. If the Practitioner will be working in a Massage Establishment, the application shall indicate the name and address of the Massage Establishment.
- (2) A statement in writing from a licensed physician in the Commonwealth of Massachusetts that he or she has examined the applicant within the past thirty (30) day period preceding the application and believes the applicant to be free from all communicable diseases transmissible by the practice of Massage or the close physical contact ordinarily associated with Massage. Such statement shall include certification that the applicant is free of Tuberculosis in a communicable form as set forth by the Department of Public Health in the Commonwealth of Massachusetts.
- (3) The following personal information concerning the applicant:
  - (a) Name, complete residence address, telephone number, and addresses for the five years immediately prior to the application date.
  - (b) Written proof of age;
  - (c) Sex, height, weight, color of hair and eyes;
  - (d) Two front faced portrait photographs at least two inches-by-two inches in size within the six months preceding the date of application.

- (4) The Massage or similar business history and experience of the applicant, including but not limited to whether or not such person, in previously performing Massage services or operating a Massage Establishment or Off-Premises Massage Business in this or another City or State under a license or permit, has had such license or permit denied, revoked, or suspended and the reasons therefor.
- (5) All criminal convictions excluding traffic, misdemeanor or infraction violations.
- (6) A diploma or certificate and transcript of graduation from a Massage School or Training Facility licensed in Massachusetts, and satisfactory evidence of having completed a minimum five hundred (500) hour course of study in Massage which meets the standards of a state or national professional association.

The Board of Health may consider an applicant whose study of Massage took place outside the Commonwealth of Massachusetts upon receiving satisfactory evidence that the applicant has completed a minimum five hundred (500) hour course of study in Massage which meets the standards of a state or national professional association. The applicant shall submit documentation as required by the Board of Health. Proof of completion shall include, but not be limited to, dates of study, the name and address of the school attended, and a telephone number of the school. The applicant must also supply a course description, an outline of material covered, transcript, a letter addressed to the Board of Health from the school administrator verifying completion, and any other information that the Board of Health may require to determine the ability of the applicant to perform the work which the applicant will be authorized to do by the license applied for.

- (7) Such other information and identification as deemed necessary by the Board of Health.
- (8) Authorization and release for the City, its agents, and employees to seek verification of the information contained in the application.
- (9) Applicant's written certification under penalty of perjury that all information contained in the application is true and correct.

(B) Upon receipt of a written application for a license, the Board of Health shall conduct an investigation in a manner deemed appropriate, to ascertain whether the license should be issued as requested. The Board of Health shall approve, conditionally approve, or deny the application. The Board of Health may issue the license as requested unless it makes any of the following findings:

- (1) The applicant has been convicted of a violation of the Massachusetts State Sanitary Code or has been convicted in any other state of any offense which, if committed or attempted in this Commonwealth, would have been punished as one or more offenses of that Code.
- (2) The applicant has committed an act, which if done by a licensee under this regulation, would be grounds for suspension or revocation of a license.
- (3) The applicant has committed an act involving dishonesty, fraud, deceit, injury to another, or violence, which act or acts are substantially related to the qualifications, functions, or duties of a Massage Practitioner.
- (4) The applicant has knowingly made a false, misleading, or fraudulent statement of

fact to the city in the application process.

(5) The application does not contain the information required by this regulation.

(6) The applicant has not satisfied the requirements of this regulation.

(C) All Massage Practitioners shall file an application with the Board of Health in proper form for renewal not less than thirty (30) days prior to the expiration of their licenses; whereupon their existing licenses shall not expire until the Board of Health has finally determined the renewal application's status.

(D) A Massage Practitioner's license shall be for an initial term of the current licensing year unless sooner suspended or revoked. Such license shall automatically expire on June 30 of each year, and must be renewed annually.

#### SECTION 700.00 CONDITIONS OF MASSAGE PRACTITIONER'S LICENSE

(A) Each person employed or acting as a Massage Practitioner shall have a valid license issued by the Board of Health; provided, however, that a Massage Practitioner licensed in any other city or town in the Commonwealth of Massachusetts may attend patients in the City of Somerville at the written request of a physician without taking out an additional license.

(B) A Massage Practitioner who operates a vibrator or other mechanical appliance in proximity to any body location where scalp hair can be pulled into its moving parts shall cover or wrap a Patron's hair in a way to protect the hair from such moving parts.

(C) Massage Practitioners shall wash their hands in hot running water using a proper soap or disinfectant immediately before administering Massage to any person; provided, however, when access to hot running water is impractical, Massage Practitioners shall sanitize their hands using alcohol of no less than seventy percent (70%) solution or using any other preparation having equal or better antiseptic properties.

(D) Business address and telephone number changes of the licensee must be reported within fourteen (14) working days after the change occurs.

(E) Massage Practitioners must display their licenses in any Establishment or Business address where they practice or are employed.

(F) If the licensee frequently or regularly practices Massage in a hotel or motel, health club or fitness center, such establishment itself must hold a Massage Establishment License. Regular or Frequent shall mean more than six (6) occasions over a six (6) month period.

(G) Massage Practitioners may not diagnose disease, prescribe medicine, or perform any procedure which requires a license to practice medicine, dentistry, nursing, physical therapy, pharmacy, athletic training, podiatry, chiropractic or any other similar profession that is subject to licensing.

(H) Massage Practitioners may not administer Massage to a minor without the written consent of the minor's parent or guardian.

(I) Massage Practitioners shall not initiate or tolerate sexual advances while administering



Massage to a Patron.

(J) All Massage Practitioners shall follow all rules set forth in this regulation and conduct themselves in accordance with the standards of the appropriate state or national professional association.

#### SECTION 800.00 CONDITIONS OF ESTABLISHMENT OR BUSINESS LICENSE

(A) No license issued under this regulation shall be transferable, either for location or for any form of change in ownership; provided, however that upon the death or incapacity of an establishment or business operator licensee, the Board of Health may allow the Massage Establishment or Off-Premises Massage Business to continue in business for a reasonable period to permit an orderly conclusion of affairs or to permit a successor operator to achieve licensure. Any Person desiring to undertake continued operation under the terms of this paragraph must request permission from the Board of Health within thirty (30) business days after the original licensee's death or incapacity. In no case shall the time allowed for continued operation extend more than six (6) months past the death or incapacity of the original licensee.

(B) Each licensee shall display a valid current license and a copy of the license of each and every Massage Practitioner employed in the business or establishment in an open and conspicuous place on the premises.

(C) A licensee shall be restricted in the exercise of the license to the place or places set forth in the license, and no licensee shall provide any form of Massage not specified in its license.

(D) No person in an Establishment or Business, including but not limited to, Patrons, Massage Practitioners, and manager, employee, or agent of an Establishment or Business shall: (1) expose his or her Sexual or Genital Areas to any other person, (2) touch or fondle the Sexual or Genital Areas of his or her body or of any other person, or (3) engage, offer, or attempt to offer or engage any other person in sexual activity.

(E) No person on the premises of a licensed Establishment or Business shall: (1) possess, consume, or use any alcoholic beverages, (2) possess, use, or distribute illicit drugs, or (3) use controlled drugs in a nontherapeutic or unprescribed manner. The owner, operator, or responsible manager or employee shall not permit any such person to enter or remain upon the premises.

(F) No Establishment or Business shall display, sell, or serve alcoholic beverages or other intoxicants or have an adjoining door with any accommodation or location that does.

(G) A licensee shall notify the Board of Health of any changes in the name of the establishment, or change of home or business address or telephone numbers or emergency telephone numbers of the licensee, within fourteen (14) days of the change.

(H) No licensee shall operate under any name or conduct business under any designation not specified in its license, and in every case in which any person or establishment does operate under any name other than that of the licensee, the name of the licensee shall be displayed in all signs and advertisements in connection with the trade or commercial name.

(I) A licensee shall permit authorized inspectors and agents of the Board of Health to visit and inspect the Establishment at all times in order to ascertain whether it is in compliance with laws, including this regulation.

(J) Under the authority of M.G.L. Chapter 140, Section 52, members of the Police Department may enter and inspect any Massage Establishment.

(K) A licensee shall furnish such reports and information as the Board of Health may reasonably and lawfully require.

#### SECTION 900.00 LICENSE SUSPENSION OR REVOCATION

(A) The Board of Health may suspend or revoke any Massage Establishment's, Off-Premises Massage Business', or Massage Practitioner's license for such cause as it deems sufficient. A person whose license has been suspended or revoked may, within ten (10) days of the suspension or revocation of his/her license, request in writing a hearing upon the cause of such suspension or revocation. The Board of Health may set a time and place for said hearing.

(B) No suspended license may be renewed. If a suspended license lapses during the suspension period, its renewal shall not be processed until the end of the suspension period.

(C) In any case involving suspension or revocation of an Establishment or Business license, a change of ownership, operator, or employees shall not affect the suspension or revocation of the license.

(D) During the time that an Establishment or Business license is suspended, a new operator or owner may apply for a license for the same establishment or business. However, any license granted in such circumstances shall be effective only after completion of the suspension.

#### SECTION 1000.00 PENALTIES

Whoever violates any provisions of this regulation shall be punished by a fine of not more than one hundred dollars (\$100) per day per offense or by imprisonment for not more than six (6) months or both, in accordance with Section 53, Chapter 140 of the General Laws.

#### SECTION 1100.00 SEVERABILITY

If any provision in these regulations is declared invalid or unenforceable, such provision shall be construed, limited, or if necessary, severed to the extent necessary to eliminate such invalidity or unenforceability, and the other provisions of these regulations shall remain unaffected.

#### SECTION 1200.00 VARIANCES

(A) Except for those provisions enumerated under Sections 300.00 (C), and 800.00 (J) of this regulation, the Board of Health may vary the application of any provision of this regulation with respect to any particular case when, in its opinion, (1) its enforcement would do manifest injustice, and (2) the applicant has proven that the proposed variance would afford the same degree of health and safety protection provided by these regulations. The Board of Health shall grant no variance that conflicts with the spirit of these regulations. In its discretion, the Board of Health may condition the granting of a variance upon the giving of public notice and the holding of a hearing.

(B) Every request for a variance shall be in writing and shall state the specific variance sought and the reasons why a variance is being requested.

(C) Any variance granted shall be in writing, and a copy of such variance shall, while it is in effect, be available to the public at reasonable hours at the offices of the Board of Health.

(D) Any variance authorized by this provision may be subject to such qualification, condition, suspension, or expiration as the Board of Health may express in its grant.

#### SECTION 1300.00 EFFECTIVE DATE

These regulations effectively replace any previous regulations promulgated by the Somerville Board of Health as they relate to Massage and become effective on the date of their passage. Any Massage Practitioner, Massage Establishment, or Off-Premises Massage Business in operation on the date of passage of these regulations will have twenty one (21) days to file an application with the Board of Health.

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Revised: July 20, 1998

David Osler, MD, Chairman  
Helen Corrigan  
Ann L. Elderkin, PA

Amended: January 15, 2003

David Osler, MD, Chairman  
Donald Norton

Amended: May 5, 2005

David Osler, MD, Chairman  
Cecilia Sosa-Patterson

Amended: December 15, 2005

Brian Green, MD, Chairman  
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